

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH LAFERRIERE,

Plaintiff,

—against—

**DESIGNATIONS OF
DEPOSITION TRANSCRIPTS
TO BE READ IF THE
WITNESS IS UNAVAILABLE**

THE PORT AUTHORITY OF NEW YORK AND
NEW JERSEY, PORT AUTHORITY POLICE
OFFICER CONNOR HAY AND PORT AUTHORITY POLICE SERGEANT JOSHUA KIM, CV-23-02728 (BMC)

Defendants.

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The parties having conferred among themselves and submit to the Court, pursuant to its Order, the following designations, and cross-designations of deposition transcripts to be read if the witness is unavailable,

The witnesses below are non-party witnesses. Additionally, Rolfrid Pradel lives in Quebec, Canada and outside the jurisdiction of the Court's subpoena power. Alternatively, the Defendants would request permission for Mr. Pradel to testify remotely based upon his residence. Accordingly, if the witnesses do not testify at trial, Defendants intend to introduce the below deposition transcript testimony.

Submitted with these designations are electronic copies of the deposition transcript of each witness. The depositions have been highlighted in yellow with the Defendant's deposition designations, any Plaintiff objections to defendant's designations are highlighted in red. The Plaintiff's cross designations have been highlighted in green.

Defendant's Deposition Transcript Designations

Witness - Abelardo Bautista

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 5 – line 8-9		
P. 9 – line 1-14		
P. 15 – line 20-25		

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 16 – 29 Ex. A Bautista’s handwritten statement	<p>p. 19, line 14-21. Relevance.</p> <p>p. 19, line 7-10. Hearsay.</p> <p>p. 19, line 19 – p. 20, line 22. Hearsay.</p> <p>p. 21, line 17 – p. 22, line 4. Hearsay.</p> <p>p. 22, line 16-19. Hearsay.</p> <p>p. 28, line 8-16. Hearsay.</p> <p>Ex. A. Hearsay.</p> <p>p. 28, line 22-p. 36, line 8. Hearsay.</p>	<p>Foundation for business record hearsay exception not laid.</p> <p>The witness discusses Exhibit A, for which proper foundation is not laid.</p>

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 29 – 36 Ex. B Bautista’s typewritten statement to Blue Water	P. 29 – 36. Hearsay. Ex. B. Hearsay within hearsay.	P. 29 – 36 contains the witness’ discussion of the content of Ex. A—for which a proper business record foundation is not laid. Therefore, this testimony is inadmissible hearsay. Ex. B outlines what Jennifer Figueroa told the author of the document—which is hearsay within hearsay.
P. 36 – p. 41-line 1	Hearsay within hearsay.	In this section, the witness discusses the contents of Ex. B. As noted, Ex. B is filled with hearsay within hearsay.
P. 43 – line 7 – p. 44-line 25	p. 44, line 1-4. Speculations	(as to inciting).
P. 47 – line 23-25 - p. 48-line 1-5		

Witness - Jennifer Figueroa

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 6 - line 14-21		
P. 8 - line 24-25, p. 9 – line 2-12		
P. 10 - line 10-25		
P. 11 - line 2-25		
P. 12 - line 2-25		
P. 13 - line 2-25		
P. 14 - line 2-25		
P. 15 - line 2-25		
P. 16 - line 2-10		
P. 17 - line 10-25		
P. 18 - line 2-6		
P. 24 - line 3-24		
P. 25 - line 2-25		
P. 26 - line 2-11		
P. 27 - line 20-25		
P. 28 - line 2-25		
P. 29 – line 2-25		

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 30 - 53, line 2-4	<p>p. 34, line 14 – p. 35, line 6. Speculation</p> <p>p. 36, line 2-19. Hearsay.</p> <p>p. 36, line 20. Argumentative question and speculative answer.</p> <p>p. 38, line 25- p. 40, line 3. Speculation.</p> <p>p. 41, line 25 – p. 42, line 23. Hearsay.</p> <p>p. 43, line 19- 25. Hearsay.</p> <p>p. 47, line 8- p.48, line 19. Speculation.</p> <p>p. 50, line 17 – p. 51, line 6. Speculation</p>	<p>(“riling up passengers”).</p> <p>(“was upset”).</p> <p>(“he didn’t want to get off”... “he didn’t believe when I made the announcement”).</p> <p>(“majority of the the customer, of course, upset” ... “he didn’t believe”... “make him understand”).</p> <p>(“everyone just wanted to follow him” ... “they were listening”).</p>
P. 54 – 56, line 2-24	<p>p. 54, line 9 – p. 14. Hearsay.</p> <p>p. 55, line 9 – 13. Speculation.</p> <p>p. 55, line 17 – p. 56, line 16. Speculation</p> <p>p. 56, line 22 -24. Speculation</p>	<p>(“the others were just following him”).</p> <p>(“what did the other passengers do in response to this”).</p>

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 59 - line 10-13, p. 60, line 2-24 (Ex. A handwritten)	Hearsay. Hearsay.	P. 59, lines 10-13, p. 60, lines 2-24. This section is testimony about Exhibit A—a document for which a business record foundation is not laid. Ex. A. - Business records exception foundation not laid (no assertion that it's the ordinary course of business to make such a record). This entire section is filled with questions about this document she prepared.
P. 63 - line 8-25	Hearsay.	This section is testimony about Exhibit A—a document for which a business record foundation is not laid.
P. 64 - line 2-21, line 23-25	Hearsay.	This section is testimony about Exhibit A—a document for which a business record foundation is not laid.
P. 65 - line 2-25	Hearsay.	This section is testimony about Exhibit A—a document for which a business record foundation is not laid.
P. 66 - 74, line 19	Hearsay.	This section is testimony about Exhibit A—a document for which a business record foundation is not laid.
P. 75 - line 9-21, Ex. B video		
P. 76 - line 8-23, Ex. C		
P. 80 - line 24-25		
P. 81 - line 2-25		
P. 82 - line 2-7		
P. 91 - line 4-25	Hearsay.	

Witness - Rolfrid Pradel

<u>Transcript Excerpt:</u>	<u>Plaintiff Objection:</u>	<u>Basis for Objection:</u>
P. 5 – line 23-25 – p. 6 – line 1-7		
P. 8 – line 7-12		
P. 14 – line 7-10		
P. 15 – line 20-25		
P. 18 – line 3-24		
P. 20 – line 11-25 – p. 21 – line 1-25		
P. 22 – 25, line 1-14	p. 23, line 8 – 22. Hearsay.	
P. 26 – line 22-25, p. 27, line 2		
P. 30 – line 5-25 – p. 31, line 1-17		
P. 33 – line 20-25, p. 34 – line 1-25		
P. 36 – line 1-11		
P. 37 – line 7-23	Hearsay.	
P. 40 – line 5-25	p. 40, line 5-16. Hearsay.	
P. 44 – line 6-23		
P. 50 – line 2-5, 24-25, p. 51 – line 2-16		
P. 52 – line 16-25 – p. 53 – line 7		
P. 54 – line 6-10		
P. 65 – line 13-25 – p. 66 – line 2-25		
P. 67 – line 2-25- p. 68 – line 2-25		
P. 69 – line 2-25, p. 70 – line 2-25		
P. 71 – line 2-14		
P. 74 – line 7-25 – p. 75 – line 7		
P. 76 – line 4-11, 20-24		
P. 77 – line 18-23		
P. 78 – line 5-13, 18-25		
P. 79 – line 2-21		
P. 81 – line 6-25		
P. 82 – line 2-7		
P. 83 – line 3-25		
P. 84 – line 2-24		
P. 92 – line 3-25		
P. 93 – line 2-12		

Plaintiff's Deposition Transcript Cross Designations*Witness - Rolfrid Pradel*

<u>Transcript Excerpt:</u>	<u>Defendant's Objection:</u>	<u>Basis for Objection:</u>
p. 9, line 21- p. 10, line 3.		
p. 35, line 2-25.	Hearsay.	
p. 37, line 24- p. 38, line 6.	Hearsay.	
p. 41, line 2- p. 42, line 24.	Hearsay.	
p. 45, line 4- p. 46, line 6.	Hearsay.	"We told the police..."
p. 58, line 16- p. 59, line 23.	Speculation.	"The voice, it seems to be mine..."
p. 85, line 12- p. 86, line 25.	Hearsay.	
p. 90, line 4 – p. 91, line 7.	Basis of knowledge.	Witness is testifying to another person's state of mind.

Dated: December 29, 2023

Cody Warner, Esq
Attorney for Plaintiff

Cody Warner
 Cody Warner, Esq.
 Attorney for Plaintiff
 11 Broadway, Suite 615
 New York, New York 10004
 (212) 627-3184

PORT AUTHORITY LAW DEPARTMENT



Andres Casas, Esq.
 Kathleen Gill Miller, Esq
 Attorneys for Defendants, The Port Authority
 of New York and New Jersey and Police
 Officer Connor Hay and Police Sergeant
 Joshua Kim
 4 World Trade Center
 150 Greenwich Street, 24 Fl.
 New York, NY 10007
 (212) 435-3669
 Email: acasas@panynj.gov